Court No. 1

Writ Petition No. 2233 (M/S) of 2001

Sri Suresh Chandra Gururani. ..... Petitioner.

Versus

State of Uttaranchal and

others. .....Respondents.

Hon. P.C. Verma, J.

The petitioner is the owner of a house situate on plot no. 3 Poplars Compound, Mallital, Nainital Earlier a notice for demolition of an un authorised construction was given to him under the U.P. Urban Buildings and Development Act by the greater Nainital Development Authority. Against that order of demolition the petitioner preferred an appeal before the Commssioner. The Commissioner allowed the appeal and remanded the matter to the Development Authority which is Lake Development Authority to decide the matter afresh. No doubt the Lake Development Authority decided the matter in the year 1996. The decision was sent to Sri Suresh Chandra Gururani in a sealed envelope. The post man submitted his report that the petitioner refused to accept the notice. The sealed envelope was produced before this court. The learned counsel for the Lake Development Authority submitted that it is the service by refusal. The learned counsel for the petitioner submits that the post man has written at his own as there is no signature of any witness before whom the post man tried to serve the petitioner. It reveals from the perusal of the noting of the post man that, "LEN SE INKAR KIYA" has been written in the presence of any witness of the vecinity. Sri Uniyal learned counsel for the respondent placed before me the record which shows that the service was also effected by fixing the notice on the building

itself. The process servor has reported to Secretary Lake Development Authority that when he visited to serve the notice, the petitioner was not found on the spot and he affixed the notice on the wall of the building but in the said report, the process servor has not given the name of any witness of the vecinity before whom he affixed the notice on the compound. Learned counsel for the petitioner submits that when he came to know about the orders passed in the year 1996 in the year 2001, he has filed an appeal before the Commissioner, The Commissioner Kumaun has been given additional charge of the post of Secretary to the Chief Minister as such he remains busy with the Chief Minister and has no time to decide judicial matters. Therefore, his appeal cannot be decided expeditiously and it may be that before any order is passed in appeal, the demolition of his house may take place.

Since the petitioner has preferred an appeal, I direct the appellate authority to decide the appeal within a period of one month from the date of production of a certified copy of this order.

Subject to above, the writ petition is dismissed.

R.P. Singh Sd/-
30.05.2001